

BEFORE THE INVESTIGATIVE PANEL OF THE  
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A  
JUDGE, NO. 00-211,  
HOWARD C. BERMAN

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CASE NO.: SC00-2491

**MOTION IN LIMINE OF THE JQC FOR ORDER PROTECTING  
WITNESSES FROM HARASSMENT**

COMES NOW the Judicial Qualifications Commission through its undersigned Special Counsel and files herewith its Motion in Limine and requests an Order protecting witnesses from harassment at hearing of this matter and states as follows.

1. On Monday, August 20, 2001, an article appeared in the Palm Beach Post under the headline, "Judge Targets Accusers' Character Flaws." The essence of this article was that Judge Berman and his counsel intend to "put the victim on trial" at hearing of this matter. A copy of said article is attached hereto as Attachment A.

2. On Tuesday, August 21, 2001, counsel for Judge Berman, Scott Richardson, traveled to Boston, Massachusetts, to depose Richard Carberry. It was the testimony of Richard Carberry that he was a cocaine addict while employed at the Public Defenders Office in Palm Beach County and that, in September, October and part of November 1996 he used cocaine on a daily basis with Complainant Jo Ann Kotzen. This type of evidence was the subject of a prior Order of the Hearing Panel (Order Denying Motion to Compel Kotzen Testimony, June 17, 2001).

3. On Wednesday, August 22, 2001, counsel for Judge Berman, Scott Richardson, traveled to New York, New York, to depose Brian Fuller. It was the testimony of Brian Fuller that he was a co-worker of Complainant Roxanne Ramos and that in 1998 Ms. Ramos, a married woman, had "relationships" with two male co-workers. Brian Fuller testified that the basis for this testimony

was that he saw one of said co-workers wait in the parking lot at work for Ms. Ramos and saw the other co-worker at lunch in a public restaurant with Ms. Ramos.

4. On Thursday, August 23, 2001, the undersigned was advised verbally by counsel for Judge Berman, Sydney Stubbs, of an additional five witnesses whom Judge Berman intends to call at hearing of this matter. Two of these additional witnesses, according to Mr. Stubbs, would testify as to the provocative dress and mannerisms of Complainant Jo Ann Kotzen. Another witness would testify as to the “flirtatious” nature of Complainant Roxanne Ramos. During that conversation Mr. Stubbs also advised that another witness who appeared on the witness list filed by Judge Berman in this matter on August 16, 2001, and whose identity as a witness was first disclosed to the undersigned through that document, would testify as to the provocative behavior of Complainant Jo Ann Kotzen.

5. On Friday, August 24, 2001, the undersigned received the Prehearing Statement of Howard Berman. This Prehearing Statement contains the names of six (6) witnesses whose identities had not previously been disclosed by Judge Berman. One is being called to testify as to the “inappropriate attire” of Complainant Joanne Kotzen. One is being called as to a “conversation which was taped with Joanne Kotzen.” One is being called to testify as to an “incident” with Joanne Kotzen; another as to a “recent incident” with Joanne Kotzen.

6. In addition, the Prehearing Statement of Judge Berman lists a total of 28 exhibits, many of which have never been disclosed to the undersigned and which appear to pertain to the dissolution of the marriage of Complainant Roxanne Ramos or to a domestic violence charge which she brought against one Frank Roy.

7. On August 23, 2001, the undersigned received a copy of a subpoena issued by counsel for Judge Berman for the psychological evaluation of Complainant Lisa Ferreira, a deputy sheriff

employed by the Palm Beach County Sheriff.

8. For reasons which are apparent herein the undersigned was not able to file this motion 7 days in advance of the preliminary telephonic conference scheduled for today, August 27, 2001.

9. There are specific charges in this matter which have been denied. The search for the truth in this matter will not be aided by irrelevant testimony concerning the attire of the Complainants or by gossip concerning their "relationships" with others. It is demeaning to the system of justice and chilling to those who have enough to fear in coming forward to complain against those who, by election or appointment, have the power to judge.

WHEREFORE the Judicial Qualifications Commission requests an Order prohibiting counsel for Judge Berman from pursuing questions which are designed to embarrass, harass and annoy the Complainants in this case.

Respectfully submitted,

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JUDY S. HOYER, ESQUIRE  
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Special Counsel  
Judicial Qualifications Commission

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been delivered by FACSIMILE and by U.S. Mail to: The Honorable James Jorgenson, Chair, Hearing Panel, Florida Judicial Qualifications Commission, Mount Vernon Square, 1110 Thomasville Road, Tallahassee,

Florida 32303; Thomas C. MacDonald, Jr., Esquire, Cook, Bell & MacDonald Mediation Group, 100 N. Tampa Street, Suite 2100, Tampa, Florida 33602; Brooke Kennerly, Executive Director, Florida Judicial Qualifications Commission, Mount Vernon Square, 1110 Thomasville Road, Tallahassee, Florida 32303; John R. Beraneck, Esquire, Ausley & McMullen, 227 S. Calhoun Street, Tallahassee, Florida 32301; Sydney A. Stubbs, Esquire, Jones, Foster, Johnston & Stubbs, P.A., 505 S. Flagler Drive, Suite 1100, West Palm Beach, FL 33402-3475; Bettye J. King, Esquire, 625 North Flagler Drive, Suite 501, West Palm Beach, Florida 33481; and to Scott N. Richardson, Esquire, Atterbury, Goldberger and Richardson, 250 Australian Avenue South, Suite 1400, West Palm Beach, Florida 33401-5015, this \_\_\_\_\_ day of August, 2001.

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JUDY S. HOYER, ESQUIRE